Supreme Court, U.S.
FILED
MAR 13 1990
JOSEPH F. SPANIOL, JR.
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(3)

No. 89 1040

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1989

ROBERT S. CHAPPELL,
Petitioner

-V-

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR A WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

BRIEF FOR PETITIONER IN REPLY TO ARGUMENTS FIRST RAISED IN OPPOSITION BRIEF

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Motion to Waive Rule 33

Comes now the petitioner, pro se to request leave to file the brief, in reply, herewith in its handwritten form for the following reasons:

1. Government's "Brief in Opposition" was received on the afternoon of March 8, 1990, leaving only eight days before the decision date;
2. The petitioner is incarcerated in a small town with only one printer, there is no typing facility in the jail;
3. Phone calls are limited to two per week; thus, calling to solicit help is impossible;
4. Petitioner was transferred in disregard of Rule 41 of The Supreme Court.

This motion is respectfully presented this 9th day of March 1990,

by Robert L. Chappell,
Petitioner, pro se.

Proper service per Rule 28 has been made to the Solicitor General.

by Robert L. Chappell,
Petitioner, pro se.

Comments on Government's Statement

In a fifteen count indictment, four counts were dropped, the petitioner was acquitted on nine counts for which two witnesses were presented and two counts for which no defense was presented, resulted in conviction. There was only one conspiracy or scheme alleged. The petitioner was either guilty of all counts or else none of them.

1. The petitioner has summerized that opinion by the appellate court as being "Orwellian, 1984, Doublespeak." It make no sense at all. Please read it, U.S. v. Chappell, 698 F.2d 308 (7th Cir.). Government statements in this section are inaccurate. Number of oil wells to be drilled was the charge. Zero were drilled. The government stated that the petitioner said that 30 wells would be drilled. There was no time deadline, there were natural gas arrangements to be made and 30 wells were not paid for. There was spacing for 30 wells. The prospectus and transcript are clear on these points.

James Bradford, the trial counsel, was hired to do the appeal. Donald Talbert and Richard Danko were hired to assist. Bradford was paid $15,000.00 and Talbert and Danko were paid a total of $10,000.00. It is simply false to find or to state otherwise.

Comments Continued

It is simply false for anyone to state or for a court to find that petitioner did not say that appellate counsel were ineffective as states on page 3 Govt. Brief. Please see pages 58 (bottom), 59, and 60 of Petitioner's "Petition for Cert.. All of page three is far from truth. Justice in this case would demand a de novo review to alleviate the false findings, half truths and mistatements. It has never been a question of whether or not appellate counsel were ineffective. It has only been a question of who it was. The petitioner says that it was Bradford. Who was it? Was it an association of counsel? Or, was it three separate individuals. Government's brief is too replete with error for comments on all of them.

Comment On Argument

Petitioner is without a law library. He cannot possibly make a legal argument. However, the government argues that the position of the Seventh Circuit is not firm. It has been firm. It was only after petitioner's petition for cert. that it changed or gave that appearance.

Argument for Writ of Certiorari

For all of the reasons stated in Rule 17
1. (a) and (c) the writ should issue:

1. The lower courts have departed too far from the accepted and usual course of judicial proceedings, and the ignorance and total disregard for too many of this courts' decisions not only call for but demand an exercise of this courts power of supervision;

2. Left to a choice of using its current ways or adopting new ones will not remove the autocracy, politics, and severity from that system;

3. Left to a choice the government position will again be ignored as it was prior to petitioners filing;

4. Every dirty trick and more chicanery has been used to prevent petitioner from filing his "Petition for Certiorari." He was transferred to a small town with only one printer in total disregard for Supreme Court Rule 41.

5. The Seventh Circuit made decisions complying with this courts decisions only after petitioners filing;

6. Haynes v. Kerner, 92 S. Ct. 594 (1972) has been totally ignored. The cover up is desperately continuing. For the district court to make findings without evidence, without briefs in total disregard of the Supreme Courts' rulings proves the necessity for the court to exercise its supervisory powers;

7. It has been impossible for petitioner to get exhibits and even the transcripts from his lawyers (former ones). They refuse and lie about it;

8. The findings of the lower courts have been false, half-truths which are unrelated to any fact. This is true from the direct appeal all the way through the present; an example is to be found in Petition for Cert. pages 58, 59, and 60. In spite of all of that argument on ineffective appellate counsel, the district court and the appellate court found that petitioner had not alleged ineffective assistance of appellate counsel. It was not listed on question 9 but it was stated in the court ordered brief;

9. The petitioner came straight through the wide-open "front door." Please see Petitioner's Petition for Cert., page 29, lines 8 thru 12 - "In the absence of some showing to the contrary by the petitioner, etc.."

10. The petitioner's second habeas petition was acted upon in 85 days while it took 17 months for the first petition;

11. To conclude that petitioner's claims are without merit is just plain false. If they are without merit none will ever have it in that district;

12. Why was the first petition passed from Democrat to Republican and back and forth if they were without merit;

13. The first petition took 17 months while the second only took 85 days; more chicanery.

Indiana should be told that federal district courts are not private property for political playgrounds or political workshops for campaign financing. Would it hear the Supreme Court? It hasn't.

Plain Error

In other districts it is plain error for a prosecutor to pretend that he has private knowledge that the petitioner lied and that he committed another crime. In cross examination Duncan held open the divorce transcript and said, "You attempted to defraud your ex-wife in the divorce settlement." That had never been alleged by anyone. The transcript did not indicate that either. In closing argument he held up the transcript and stated, "He tried to defraud his ex-wife in the divorce settlement. He lied about that." There was not one shred of evidence to that effect; there was no objection and no curative instruction. That's plain error in the Fifth Circuit, but not in the Seventh, United States v. Dunnin (1980, CA5) 632 F.2d 1297. Bradford just sat there staring and grinning at the judge as petitioner frantically tried to get him to object.

Prosecutor Turner's statement "if you can't convict him on the earlier counts, you can convict him on the latter ones also approaches plain error."

Conclusion

Petitioner had a fine reputation. He had built excellent companies. There was never a complaint. Press was saying petitioner was a financial genius. Petitioner was ordered to pay $250,000, to Vance Hartke campaign manager or else have problems with the I.R.S. and S.E.C. Petitioner said no. It was wrong to do that and he went to the newspapers. Hartke's promises were well kept. Petitioner, at age 39, was the first recipient of an injunction in the United States without the consideration of materiality, reliance, or intent. That effectively ended the business career in any normal sense. It was a life sentence. After two trials lasting seven weeks the frivilous charges were all proved to be false. The most serious fact was some typos in the minute book. There was not even the slightest rule violation.

The "pretended crimes" and "pretended tax debt" will continue unless the Supreme Court acts.

The deviation from normal procedure is too great on the issues in this case. The writ should issue for all of the above reasons and with the hope that benefit would come to those who live in Indiana. Their economy is dependent upon an honest efficient judiciary.

Respectfully submitted, 3-9-90.
Robert S. Chapple, Petitioner, Pro se.